

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

CARLOS A. GARCIA PEREZ, ET AL

Plaintiffs

vs.

ALVARO SANTAELLA, M.D., ET AL

Defendants

CIVIL NO. 97-1703 (JAG)

JURY TRIAL DEMANDED

**MOTION TO STRIKE PLAINTIFFS RESPONSE
IN OPPOSITION AS UNTIMELY**

TO THE HONORABLE COURT:

Comes now codefendant, American International Insurance Company of Puerto Rico, Inc., hereinafter AIICO, through the undersigned attorneys and respectfully states and prays as follows:

1. On October 27, 2004, codefendant Plaintiffs filed a Motion in Limine which was timely opposed by the appearing party on November 9, 2004. (Refer to Docket Entries 234 and 248). The aforementioned motions were notified to and by the undersigned via the CM/ECF system. As per Docket Entry 248, Plaintiffs response in opposition was due by November 22, 2004.
2. On December 6, 2004, twenty seven (27) days after AIICO's Motion to Strike, Plaintiffs, without proffering any excuse for the delay in filing, submitted a response in opposition to AIICO's motion to strike. Plaintiffs claim that the deadline for their

opposition was December 1, 2004, and that the same was inadvertently overlooked.

3. Rule 7.1(b) of the Local Rules of this Honorable Court governs objections to motions and clearly states as follows: “Unless within ten (10) days after the service of a motion the opposing party files written objection thereto, incorporating a memorandum of law, the opposing party shall be deemed to have waived objection. ...”

4. With regard to their objection to AIICO’s Motion to Strike, Plaintiffs flagrantly ignored the ten (10) day time frame, failed to file a motion for an extension and did not even seek leave to file their response in opposition after the deadline had transpired. Consequently, the Local Rules of this Honorable Court mandate that Plaintiffs be deemed to have waived their objection to AIICO’s Motion to Strike Plaintiffs Motion in Limine.

5. In light of the aforementioned situation, it is respectfully requested that Plaintiffs Response in Opposition to AIICO’s Motion to Strike be stricken from the record as untimely.

WHEREFORE, it is respectfully requested that the Honorable Court take notice of this Motion and strike Plaintiffs Response in Opposition to AIICO’s Motion to Strike Plaintiffs Motion in Limine.

I Hereby Certify that on December 8, 2004, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Andres Guillemard Noble, Esq., Joan S. Peters, Esq., Pedro J. Cordova, Esq., Angel R. De Corral Juliá, Esq., Marta E. Vilá Báez, Esq., Roberto Ruiz Comas, Esq.,

José Enrique Otero, Esq., José Hector Vivas, Esq., Igor J. Dominguez, Esq., Doris Quiñones Tridas, Esq., and Pedro Toledo González, Esq.

Respectfully Submitted in San Juan, Puerto Rico on this 8th of December, 2004.

S/ JEANNETTE LOPEZ DE VICTORIA
JEANNETTE LÓPEZ DE VICTORIA
BAR NUMBER 205101

S/ ISABEL GUILLEN BERMUDEZ
BAR NUMBER 214206

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